

YATES PETROLEUM CORPORATION

IBLA 77-224

Decided September 15, 1977

Appeal from a decision of the New Mexico State Office, Bureau of Land Management, rejecting appellant's high bid for a competitive oil and gas lease NM 29703.

Set aside and remanded.

1. Oil and Gas Leases: Competitive Leases--Oil and Gas Leases:
Discretion to Lease

The Secretary of the Interior has the discretionary authority to reject a high bid in a competitive oil and gas lease sale where the record discloses a rational basis for the conclusion that the amount of the bid was inadequate.

2. Oil and Gas Leases: Competitive Leases

Where the high bid tendered at a competitive onshore oil and gas lease sale is not clearly spurious or irresponsible, and is rejected solely on the basis of a statement by an official that the bid is inadequate and no factual basis for that conclusion appears in the case record, the decision will be set aside and the case remanded for readjudication of the acceptability of the bid.

APPEARANCES: A. J. Losee, Esq., Losee & Carson, P. A., Artesia, New Mexico, for appellant.

OPINION BY ADMINISTRATIVE JUDGE THOMPSON

Yates Petroleum Corporation has appealed from the February 14, 1977, decision of the New Mexico State Office, Bureau of Land Management, rejecting its bid for oil and gas lease NM 29703. Appellant's bid of \$9,062.40 (\$37.76 an acre) was the highest of the three bids for the parcel, the other two being less than \$4,000. In support of the State Office's decision, there is only a memorandum from a field office of the Geological Survey which characterizes

the bids for the subject parcel as "inadequate" with no further explanation. ^{1/} Yates contends that this record does not support the decision. We agree.

[1, 2] Yates does not quarrel with the well-established principle concerning the discretionary authority of this Department to reject a high bid for a competitive oil and gas lease when the record sets forth a rational basis for the conclusion that the bid is inadequate. Indeed, this Board has affirmed such rejections on the basis of inadequacy of the bid where the record in the case shows that the Geological Survey has reached such a conclusion in the proper exercise of its technical expertise. See, e.g., Arkla Exploration Co., 25 IBLA 220 (1976); see also, H & W Oil Co., Inc., 22 IBLA 313 (1975); John H. Larsen, 12 IBLA 244 (1973); Howell Spear, 8 IBLA 93 (1972); Antoine "Fats" Domino, 7 IBLA 375 (1972). But where a bid is not spurious or unreasonable on its face and the record fails to disclose a rational basis for the conclusion that the bid is inadequate, a rejection of the bid will not be sustained on appeal. This Board has held that a record on appeal is insufficient when it contains nothing more than a mere conclusory statement that a certain bid is inadequate and has remanded such cases for readjudication of the bid. See, e.g., Yates Petroleum Corp., 27 IBLA 224 (1976); Frances J. Richmond, 24 IBLA 303 (1976); Arkla Exploration Co., 22 IBLA 92 (1975). Appellant correctly contends that these precedents require similar action here.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is set aside and the case remanded for further action consistent with this decision.

Joan B. Thompson
Administrative Judge

I concur:

Martin Ritvo
Administrative Judge

^{1/} A list of the bid results of other parcels offered at the same sale is also in the record. Most of the 25 high bids for other parcels were substantially higher in price per acre than appellant's bid for the subject parcel. However, 3 high bids are lower per acre than the parcel which is the subject of this appeal. No explanation or information concerning the differences among the sale parcels is included in the record, or why the other lower high bids were acceptable but this bid was not.

ADMINISTRATIVE JUDGE FISHMAN, CONCURRING:

I agree that the record, as presently constituted, does not afford a sufficient predicate for an informed determination of the merits of the appeal. I also agree that the decision below is properly set aside and the case remanded.

However, my concurrence in the majority should not be construed as acquiescence in the proposition that the Board is bound to support an appealed decision if that decision has a rational basis. To do so is in essence to state that the Board will only reverse a decision if it is arbitrary or capricious. That standard is properly applied by the Federal District Courts. The Board's function is to weigh the conflicting views and evidence. To employ the arbitrary or capricious standard is, in my judgment, an abnegation and abdication of the Board's responsibility.

Frederick Fishman
Administrative Judge

